

**ORDINANCE NO. 2002-001**

**THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF JACKSON, STATE OF COLORADO**

**AN ORDINANCE RESTRICTING OPEN FIRES AND  
OPEN BURNING IN THE UNINCORPORATED AREAS OF JACKSON COUNTY**

**WHEREAS**, section 30-15-401(1)(n.5), C.R.S., authorizes the Board of County Commissioners ("Board") to adopt an ordinance banning open fires to a degree and in a manner that the Board of County Commissioners deems necessary to reduce the danger of wild fires within those portions of the unincorporated areas of the county where the danger of forest or grass fires is found to be high, based on competent evidence; and

**WHEREAS**, the Jackson County Sheriff ("Sheriff") is authorized under the provisions of sections 30-10-512 and 30-10-513, C.R.S., to act as fire warden of the county in case of prairie or forest fires, and to assume charge or assist other governmental entities in controlling or extinguishing forest or prairie fires; and

**WHEREAS**, the Sheriff has requested that the Board adopt a ban on open fires and open burning in the unincorporated areas of Jackson County; and

**WHEREAS**, open fires and open burning can be a prime cause of forest and prairie fires in Jackson County; and

**WHEREAS**, the weather conditions, lack of precipitation, and heavy fuel loading have created a threat of fire in the forests and prairies of Jackson County, and a current state of emergency exists with respect to fire danger; and

**WHEREAS**, the Board finds that competent evidence has been presented to the Board indicating that the danger of forest and prairie fires in Jackson County is high, and therefore, it is necessary for the immediate preservation of the public health, safety and welfare of the citizens of Jackson County to impose a restriction on all open fires and open burning within the unincorporated areas of Jackson County; now, therefore,

**BE IT ORDAINED, BY THE BOARD OF COUNTY COMMISSIONERS OF JACKSON COUNTY**, as follows:

**Section 1. Title.** This ordinance shall be known and referred to as the "Jackson County Open Fire and Open Burning Restriction Ordinance" and may be cited and referenced as such.

**Section 2. Purpose.** The purpose of this ordinance is to preserve and protect the public health, safety and welfare of the citizens of Jackson County, Colorado, by restricting open fires and open burning in the unincorporated areas of Jackson County in order to prevent forest and prairie fires when a high danger of such fires exists as a result of atmospheric conditions, including lack of moisture and other local conditions in Jackson County.

**Section 3. Application.** This ordinance shall apply throughout the unincorporated areas of Jackson County including public, private, state and federal lands.

**Section 4. Levels of Fire Ban.** The Board of County Commissioners shall determine, and set by resolution, the degree or "Level of Fire Ban" deemed necessary to reduce the danger of forest and prairie fires in Jackson County. The Board, by resolution, may change the Level of Fire Ban from time to time should competent evidence indicate an increase or decrease in danger of such fires as a result of changing atmospheric conditions, including changes in moisture levels from precipitation and other changes in local conditions in Jackson County.

**Section 5. Unlawful Acts.** It shall be unlawful for any person to build, maintain, attend or use an open fire or conduct open burning on any private, state or federal lands in the unincorporated areas of Jackson County as open fire or open burning is defined under the Level of Fire Ban established and set by the Board of County Commissioners.

**Section 6. Definition of Open Fire or Open Burning and Specific Exceptions.**

For the purposes of this ordinance, "open Fire" or "open burning" shall be defined as set forth herein under the following Levels of Fire Ban:

**LEVEL 1 FIRE BAN**

"Open Fire" or "Open Burning" shall be defined as any outdoor fire, including, but not limited to, campfires, warming fires, slash fires, the lighting of fused explosives and fireworks of any kind or brand, and the burning of trash and debris; excepting therefrom, the following from this definition of open fire or open burning under a Level 1 Fire Ban:

- (a) fires in self contained charcoal grills
- (b) fires within permanent fire pits, designated campfire areas or fire grates located in developed picnic grounds or campgrounds.
- (c) fires in mechanical stoves, lanterns, heating devices or appliances fueled by bottled or liquid gas - such devices must meet the underwriter's specifications for safety and have a regulator and gas control which allow the operator to turn the flame on and off
- (d) fires in fireplaces within buildings
- (e) fires within steel barrels or other nonflammable receptacles approved in writing by the Jackson County Sheriff for the burning of residential waste, trash or debris
- (f) prescribed burning of ditches for irrigated pastures, and prescribed burning of other agricultural lands if performed consistent with generally accepted agricultural practices and specifically approved in writing, in advance of the burn, by the Sheriff of Jackson County
- (g) professional fireworks displays authorized by the governing body of the unit of local government within whose jurisdiction the fireworks display is to be conducted.

**LEVEL 2 FIRE BAN**

"Open Fire" or "Open Burning" shall be defined as any outdoor fire, including, but not limited to, campfires, warming fires, charcoal grill fires, slash fires, the lighting of fused explosives and fireworks of any kind or brand, and the burning of trash and debris; excepting therefrom, the following from this definition of open fire or open burning under a Level 2 Fire Ban:

- (a) fires in mechanical stoves, lanterns, heating devices or appliances fueled by bottled or liquid gas - such devices must meet the underwriter's specifications for safety and have a regulator and gas control which allow the operator to turn the flame on and off
- (b) fires in fireplaces within buildings
- (c) professional fireworks displays authorized by the governing body of the unit of local government within whose jurisdiction the fireworks display is to be conducted.
- (d) charcoal grill fires at private residences and retail food establishments as defined in C.R.S. § 25-4-1602(14)

**Section 7. General Exceptions.** The following shall be excepted from the provisions of Section 5 of this ordinance:

- (a) Sale of fireworks and fireworks displays properly permitted pursuant to Section 12-28-103, C.R.S.
- (b) Burning of explosive wastes by the manufacturer of explosives in areas zoned for industrial use, when the burning is supervised by the fire department or the Jackson County Sheriff.
- (c) Open fires or open burning by any federal, state or local officer, or member of an organized fire protection district or department in the performance of an official fire suppression or training function; provided however, said official fire suppression or training function shall require prior approval of the Jackson County Sheriff or the Jackson County Fire Chief.

**Section 8. Enforcement.** This ordinance shall be enforced by the Jackson County Sheriff, Undersheriff, Deputy Sheriffs, and other state and federal Law Enforcement Officers or Peace Officer with authority in Jackson County.

**Section 9. Penalty for Violations.** Any person who violates this ordinance commits a class 2 petty offense under section 30-15-402(1), C.R.S. and, upon conviction thereof, shall be punished by a fine of not more than \$1,000 for each separate violation.

**Section 10. Penalty Assessment Procedure.** The penalty assessment procedure provided in section 16-2-201, C.R.S., may be followed by the arresting law enforcement officer for any such violation of this ordinance. The arresting law enforcement officer will have the discretion of giving the person a penalty assessment notice or issuing a summons to court depending on the severity of the violation. If the penalty assessment procedure is not used, and the alleged offender is found guilty, court costs may be assessed in addition to the fine. Pursuant to the penalty assessment procedure, the violator may pay the following fines, plus a \$10 surcharge:

**LEVEL 1 FIRE BAN-PENALTY ASSESSMENTS - Graduated Fine Schedule**

1st Offense - One hundred fifty and no/100 Dollars (\$150), plus ten dollars (\$10) surcharge

2nd Offense - Three hundred and no/100 Dollars (\$300), plus ten dollars (\$10) surcharge

3rd Offense - One thousand and no/100 Dollars (\$1,000), plus ten dollars (\$10) surcharge

**LEVEL 2 FIRE BAN-PENALTY ASSESSMENTS - Graduated Fine Schedule**

1st Offense - Two hundred fifty and no/100 Dollars (\$250), plus ten dollars (\$10) surcharge

2nd Offense - Five hundred and no/100 Dollars (\$500), plus ten dollars (\$10) surcharge

3rd Offense - One thousand and no/100 Dollars (\$1,000), plus ten dollars (\$10) surcharge

**Section 11. Disposition of Fines and Forfeitures.** All fines and forfeitures for the violation of this ordinance shall be paid to the Treasurer of Jackson County. All surcharges shall be paid to the Clerk of the Combined Court of Jackson County.

**Section 12.** Any person starting, maintaining or permitting an open fire in violation of this Order shall be held liable for any and all costs associated with extinguishing the fire and for any damages caused as a result of the fire.

**Section 13. Advisory Note One.** Because sparks and hot ashes from any source contribute to the fire danger, smoking outside the incorporated city limits of the Town of Walden is restricted on public lands as set forth in federal Fire Prevention Orders and federal Fire Restrictions and is discouraged on private lands except within an enclosed vehicle or building, in a developed private recreation site or while stopped in an area at least 3 feet in diameter that is barren or cleared of all flammable material.

**Section 14. Advisory Note Two.** During times of high danger of forest or other wildland fires, operating chainsaws, internal combustion engines, welding or operating acetylene or other types of torches on public lands may be restricted or prohibited. All persons conducting activities on state or federal lands are responsible for being aware of any and all federal or state Fire Prevention Orders or Fire Restrictions.

**Section 15. Additional Remedies.** The remedies provided in this ordinance shall be cumulative and in addition to any other federal, state or local remedy, criminal or civil, which may be available. Nothing contained herein shall be construed to preclude prosecution under any other applicable statute, including, but not limited to, prosecution under section 18-13-109, C.R.S., or any other applicable statute, ordinance, rule, order or regulation.

**Section 15. Severability.** If any section, subsection, clause, sentence or phrase of this ordinance is adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair or invalidate any other provisions of this ordinance which can be given affect without such invalid provision.

**Section 16. Emergency.** The Board hereby finds, determines and declares that this ordinance is necessary for the immediate preservation and protection of the health, safety and welfare of the citizens of Jackson County, Colorado.

**Section 17. Effective Date.** This ordinance shall be effective immediately and shall remain in effect until such time as this ordinance is amended, temporarily suspended or repealed. The Board, by resolution, may temporarily suspend, in whole or in part, this ordinance from time to time should the fire danger in Jackson County decrease. Likewise, the Board may reinstate this ordinance, by resolution, after it has been temporarily suspended.

**INTRODUCED, READ AND ADOPTED ON FIRST READING** on the 15th day of July, 2002, and ordered published in full in *The Jackson County Star* in Walden, Colorado, Jackson County.

**THE BOARD OF COUNTY COMMISSIONERS OF  
THE COUNTY OF JACKSON, STATE OF COLORADO**

By: /s/ Naida L. Crowner  
Naida L. Crowner, Chairman

**ATTEST:**

/s/ Charlene T. Geer  
Charlene T. Geer, Jackson County Clerk  
and Recorder and ex-officio Clerk to the  
Board of County Commissioners of  
Jackson County, Colorado